

**APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
December 11, 2002

MEMBERS

Andrew A. Simasek
Robert D. Heavner
Nicholas F. Barba
Alfred E. Ptaszniak, Jr.
Michael H. Hendricks
Ann F. White

CALL TO ORDER

Chair Michael Hendricks called the regular meeting of the York County Planning Commission to order at 7:00 p.m. The roll was called and all members except Mr. Barba were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Amy M. Parker, and Maggie Hedberg.

REMARKS BY THE CHAIR

Chair Hendricks remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. Its responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members. The York County Planning Commission is commemorating its fiftieth anniversary, having been established in August 1952.

APPROVAL OF MINUTES

Mrs. White moved to adopt the minutes of the November 13, 2002 meeting as submitted. They were adopted unanimously (Mr. Barba absent).

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. ZT-70-03, York County Planning Commission: Request to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise the use regulations applicable to Group Homes. Specifically, revisions are proposed to the definitions of "Family" and "Group Home" set out in Section 24.1-104, to the Table of Land Uses listing for Group Homes set out in Section 24.1-306, and to the Standards for Group Homes set out in Section 24.1-408.

Mr. Mark Carter explained the application and said approval would bring the Zoning Ordinance into compliance with sections of the State Code dealing with group homes for handicapped and disabled residents as well as a section amended in 1998 that applies to localities with populations between 55,800 and 57,000, which now includes York County, that requires allowances for group homes housing aged and infirm residents. In addition, the proposed amendments will create a new definition and listing for “transitional homes” in which a broader range of occupants could be offered temporary living quarters.

There was a brief discussion about the number of residents and staff permitted to reside in group homes. It was agreed that proposed performance standard (g) should be clarified to indicate the residency limits were “exclusive of staff.”

Chair Hendricks opened the public hearing. There were no public comments; he closed the public hearing.

PC02-47(R)

On motion of Mr. Simasek, which carried 5:0 (Mr. Barba absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-70-02, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE THE DEFINITION AND USE REGULATIONS APPLICABLE TO GROUP HOMES AND TO REVISE THE DEFINITION OF FAMILY

WHEREAS, in accordance with Section 24.1-302 of the Zoning Ordinance, the Zoning Administrator has evaluated a proposal for a group living facility and has determined that the use is one “not provided for,” thereby causing the proposal to be forwarded to the Planning Commission for consideration; and

WHEREAS, the Planning Commission has determined that it would be consistent with good zoning practice to consider amendments to expand the definition of “group home” to include opportunities for occupancy by residents who are not necessarily “handicapped,” as is the current requirement and, accordingly, has sponsored Application No. ZT-70-03; and

WHEREAS, the Planning Commission has considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Commission has determined that the proposed amendments should be recommended for approval;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of December, 2002 that it does hereby recommend approval of the following amendments to Chapter 24.1, Zoning, of the York County Code:

Amend Section 24.1-104, Definitions, as follows:

* * *

Family. An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) unrelated persons, occupying a single dwelling unit. For purposes of single-family residential occupancy, ~~the~~is term also shall be deemed to encompass the residents of group homes or other residential facilities, as defined in Section 15.2-2291 of the Code of Virginia, which are licensed by the department of mental health, mental retardation and substance abuse services or the department of social services and which are occupied by not more than eight (8) mentally ill, mentally retarded, developmentally disabled, ~~elderly or handicapped~~ aged, infirm or disabled persons together with one (1) or more resident counselors. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401, Code of Virginia.

* * *

Group home. A dwelling unit shared by more than four ~~(4) or more unrelated~~ handicapped persons, including resident staff, who live together as a single housekeeping unit ~~and in a long-term, family-like environment~~ in which staff persons provide or facilitate care, education, and participation in community activities for the residents with the primary goal of enabling ~~residents~~ persons -who are handicapped, mentally ill or retarded, developmentally or physically disabled, or who because of age or other physical infirmity, require the protection or assistance of a group setting, to live as independently as possible in order to reach their maximum potential. -As used herein, the term "handicapped" shall mean having:

- A physical or mental impairment that substantially limits one or more of a person's major life activities so that such person is incapable of living independently; or
- A record of having such an impairment; or
- Being regarded as having such an impairment.

"Handicapped" shall not, however, include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

Transitional home. A dwelling unit, other than a group home, shared by more than four (4) unrelated persons, including resident staff, who live together temporarily as a single housekeeping unit, and in which staff persons. The following and similar types of occupancy shall be considered to be transitional housing:

- Temporary quarters for victims of physical or emotional abuse;
- Temporary or emergency quarters for children or adults needing room and board and support services that would lead to self-sufficiency and permanent shelter.

The term "transitional home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

Amend Section 24.1-306, Table of Land Uses, Category 1, as follows:

Sec. 24.1-306 Table of Land Uses

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 1 - RESIDENTIAL USES												
1. Residential - Conventional													
a) Single-Family, Detached	P	P	P	P		S							
b) Single-Family, Attached													
• Duplex				S		P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, Detached	P	P	P	P									
b) Single-Family, Attached													
• Duplex	S	S	S	S									
3. Apartment Accessory to Single-Family Detached	P	P	P	S									
4. Manufactured Home Park					S								
5. Boarding House		S				S							
6. Tourist Home, Bed and Breakfast		S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S		S P							
8. Transitional Home		S	S	S		S							

Amend Section 24.1-408, Standards for Group Homes (w/ more than 8 occupants) and Transitional Homes, as follows:

Sec. 24.1-408. Standards for group homes (w/ more than 8 occupants) and transitional homes.

- The maximum number of persons accommodated in any group home or transitional home shall not exceed twelve (12) exclusive of resident staff, provided however, that the board may specify a greater or lesser number in consideration of the density and character of the surrounding area and the characteristics of the site itself.
- The external appearance and arrangement of such facility shall be of a form and character which is compatible with the appearance and arrangement of other residential uses in the general area.
- All off-street parking and loading in excess of that required of single-family detached dwellings shall be located not less than twenty-five feet (25') [7.5m] from any residential property line and shall be effectively screened from view from adjacent residential properties by a Transitional Buffer Type 25.
- Such facility shall comply at all times with all applicable licensing requirements of the appropriate state regulatory agencies.

(e) Such facility shall be under 24-hour/day care and supervision of a professional staff person (or persons), one or more of whom may also reside in the facility. The required professional qualifications of the supervisory staff shall be submitted for review as part of the zoning authorization process.

(f) The facility may include and offer on-site counseling, education and training services for residents. However, such services may not be offered at the premises to non-residents.

(g) The minimum lot size for such facility ~~group homes~~ shall be based on the number of residents, exclusive of staff, proposed to be housed in the facility, as set forth below:

<u>1 to 4 residents</u>	<u>-</u>	<u>minimum lot size for district where located</u>
<u>5 to 8 residents</u>	<u>-</u>	<u>Two (2) times the district minimum</u>
<u>9 to 12 residents</u>	<u>-</u>	<u>Three (3) times the district minimum</u>
<u>12 or more</u>	<u>-</u>	<u>Four (4) times the district minimum</u>

(h) As part of the application for Special Use Permit approval, the applicant shall submit a detailed description of the types of clients proposed to be served by the facility, a statement outlining proposed admission requirements and procedures, a description of the proposed facility staffing, a description of programs and services to be available to the residents of the facility (e.g., counseling, training, transportation, etc.), an identification of the licensing agency(s) for the proposed facility, and a statement from the applicable licensing agency that the proposed facility would be eligible for such a license if use permit authorization is given by the County.

* * *

Application No. UP-611-02, Deanna L. and Dwight S. Newingham: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to authorize the establishment of a real estate office as a home occupation within an existing single-family detached home located at 218 Ryans Way. The proposed use would have on-premises customer/client contact and one non-resident employee. The 2.07-acre parcel is located on the east side of Ryans Way, approximately 900 feet west of its intersection with Tide Mill Road (Route 600) and is further identified as Assessor's Parcel No. 30-77-1. The property is zoned RR (Rural Residential) and is designated for Low Density Residential development in the Comprehensive Plan.

Ms. Maggie Hedberg presented a summary of the staff memorandum to the Commission dated December 4, 2002, in which the staff recommended approval. She added that the present address sign is unacceptable and recommended that the Commission consider adding a condition requiring a more visible address sign on Ryans Way. Ms. Hedberg confirmed that no additional signage would be permitted.

Mr. Simasek asked if development of a 12-parcel subdivision adjacent to the subject property is planned, and Ms. Hedberg confirmed that development of a small subdivision development is expected to commence within a year. Mr. Simasek thought the number of visits to the proposed home office during the marketing of the subdivision could exceed three per week during the development of the subdivision. Ms. Hedberg pointed out that the estimate of two to three office visits per week was provided by the applicants.

Mr. Ptasznik expressed concern that the total square footage may exceed what is allowed. Ms. Hedberg said the area on which the recommendation is based includes the stairwell but not the garage. The Chair opened the public hearing.

Ms. Deanna Newingham, 218 Ryans Way, explained her brother, who lives next door, would be the only non-resident employee. The bookkeeper works from her residence and mail is delivered to a post office box. She does not expect more than the requested number of client visits because most of the business is conducted at other locations – properties being shown or the clients' homes or places of business, and on occasion at Mr. Newingham's office in Newport News. She explained that only three of the 12 lots being developed as an adjacent subdivision remain to be sold and she did not expect any impact on the neighborhood related to selling the three properties. Ms. Newingham thanked Ms. Hedberg for her professional expertise.

Mr. Hendricks asked the applicant about proposed improvements to Ryans Way. Ms. Newingham said the Virginia Department of Transportation indicates it plans to add curb and gutter on Ryans Way and a cul-de-sac just short of her property.

Mr. Heavner asked how many licensed agents would work from the home, and Ms. Newingham replied there would be two – herself and her brother.

Chair Hendricks closed the public hearing.

Mr. Simasek said he had no objections but added that because the neighborhood is changing, he recommended County review of the use permit in two years rather than the five years recommended by staff.

Ms. White agreed with a two-year review.

In response to Mr. Ptasznik's concerns about traffic handling capabilities of Ryans Way during the development of nearby parcels, the staff noted that the undeveloped parcels on either side of Ryans Way are a part of the Lotz family subdivision; Ms. Hedberg exhibited the approved development plan for those parcels. Mr. Carter explained the present traffic pattern and planned realignment of Ryans Way that would increase traffic handling capabilities for the neighborhood. He added that the requested allowance of two or three client visits per day should have no impact on the neighborhood; in fact, he added, three or four clients a day would generate less activity than some of the other approved use permits for home occupations.

Ms. White thought an unrestricted real estate operation would have a negative effect on the subdivision.

Mr. Dwight Newingham, 218 Ryans Way, requested and was granted permission to respond to the members' concerns. Mr. Newingham pointed out that the proposed home occupation is not developing the adjacent subdivision and should not increase client visits to the office. He offered to do whatever the County required to identify private property on Ryans Way in an effort to prevent parking or turnarounds on his or his neighbors' properties during construction of the subdivision. He added that the business to be occupied from the home is not a growth business.

Mr. Heavner questioned how the number of agents operating from the address as a home occupation could be limited to two, particularly in the event the applicants were to sell the property and another real estate business took occupancy. Mr. James Barnett noted that was an unlikely scenario because for more than two agents to operate without residency would be a clear violation of the use permit.

Mr. Simasek reiterated his recommendation for a two-year review which should satisfy any concerns over that type of violation.

Mr. Ptasznik moved adoption of Resolution PC02-44(R), revised to require review after two years and to add a condition requiring a more visible address sign on Ryans Way.

PC02-44(R)

On motion of Mr. Ptasznik, which carried 4:1 (Mr. Barba absent, Ms. White dissenting), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A REAL ESTATE OFFICE AS A HOME OCCUPATION WITHIN AN EXISTING SINGLE-FAMILY DETACHED RESIDENCE LOCATED AT 218 RYANS WAY.

WHEREAS, Deanna and Dwight Newingham have submitted Application No. UP-611-03, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to authorize a real estate office as a home occupation within a single-family detached dwelling located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of December, 2002, that Application No. UP-611-03 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit to authorize a real estate office as a home occupation at 218 Ryans Way, subject to the following conditions:

1. This use permit shall authorize the establishment of a real estate office as a home occupation in an existing single-family detached structure located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1.
2. This use permit shall authorize the employment of no more than one (1) non-resident.

3. The real estate office shall not exceed 500 square feet in area.
4. The hours of operation for the real estate office shall be from 9:00 a.m. to 5:00 p.m., Monday through Friday.
5. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.
6. This home occupation shall be developed and operated in accordance with the standards set forth in Section 24.1-281, General requirements for home occupations, and Section 24.1-283, Home occupations permitted by special use permit, of the York County Zoning Ordinance.
7. The applicant is permitted to have one (1) non-resident employee for a period of two (2) years from the date of issuance. Nothing shall be construed to prevent the operator of the home occupation from renewing the permit to reflect the continued service of one (1) non-resident employee.
8. Street address numbers, not less than three inches (3") in height and of a durable and clearly visible material, shall be placed conspicuously on the existing wooden pole at the end of the applicant's driveway and shall contain numbers of a contrasting color to the background on which they are mounted.

Application No. UP-612-03, Carl Richard & Karen K. Berquist: Request for a Special Use Permit, pursuant to Section 24.1-407 of the York County Zoning Ordinance, to authorize an accessory apartment containing in excess of 25% of the total floor area of the associated single family detached dwelling. The property is located at 469 Catesby Lane, and is further identified as Assessor's Parcel No. 10C-4-D-95. The property is located on the west side of Catesby Lane (Route 608), approximately 1,100 feet north of its intersection with Burnham Road (Route 609). The property is zoned R13 (High Density Residential) and is designated for High Density Residential development in the Comprehensive Plan.

Ms. Amy Parker presented a summary of the staff memorandum to the Commission dated December 4, 2002, in which the staff recommended approval.

She added that the City of Williamsburg had not commented on the courtesy copy of the application that was sent by staff. Responding to Ms. White, Ms. Parker also noted that no neighbors had commented to staff about this application.

Chair Hendricks opened the public hearing. He closed the public hearing when no one appeared to speak.

Ms. White questioned if there was sufficient parking on the property and Ms. Parker responded affirmatively.

PC02-45

On motion of Ms. White, which carried 5:0 (Mr. Barba absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 469 CATESBY
LANE

WHEREAS, Carl Richard and Karen K. Berquist have submitted Application No. UP-612-03 to request a Special Use Permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 469 Catesby Lane and further identified as Assessor's Parcel No. 104C-4-D-95; and

WHEREAS, said application has been referred to the York County Planning Commission; in accordance with applicable procedure and;

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of December, 2002, that it does hereby transmit Application No. UP-612-03 to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit to authorize a detached accessory apartment in conjunction with a single family detached dwelling on property located at 469 Catesby Lane, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 469 Catesby Lane and further identified as Assessor's Parcel No. 104C-4-D-95.
2. Building plans for the accessory apartment shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction activities related to the accessory apartment use on the site. Said building plans shall be in conformance with the elevations and location plat submitted by the Applicants on October 29, 2002 and floor plan submitted on November 25, 2002.
3. A Certificate of Occupancy for the apartment must be issued prior to establishing residence in the building.

4. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
5. The accessory apartment unit shall not contain in excess of 900 square feet.
6. The accessory apartment unit shall contain no more than one (1) bedroom.
7. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
8. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling. The accessory apartment shall not be served by a separate electrical service meter.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

NEW BUSINESS

PC02-46

On motion of Ms. White, which carried 5:0 (Mr. Barba absent), the following resolution was adopted:

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE SECTION 24.1-373. FMA-FLOODPLAIN MANAGEMENT AREA OVERLAY DISTRICT TO INCORPORATE CERTAIN CHANGES REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, Section 24.1-373 of the Zoning Ordinance sets forth the requirements applicable to floodplain management areas in the County; and

WHEREAS, the Federal Emergency Management Agency has notified the County of the need for certain revisions in the floodplain management overlay provisions in order to maintain full compliance with the requirements of the National Flood Insurance Program; and

WHEREAS, the Planning Commission has determined that sponsorship of an application to amend the Zoning Ordinance as recommended would be consistent with the needs and general welfare of the public that desires to participate in the National Flood Insurance Program;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of December, 2002 that it does hereby sponsor an application to amend Chapter 24.1, Zoning, of the York County Code to consider the following amendments to Section 24.1-373:

Sec. 24.1-373. FMA-Floodplain management area overlay district.

(a) *Statement of intent.* In accordance with the objectives of the comprehensive plan, these regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within the areas designated as flood hazard areas are safe from damage due to flooding and that development actions will not endanger others. This section complies with the requirements of the National Flood Insurance Program (42 U.S.C. 4001, et seq.) administered by the Federal Emergency Management Agency and is necessary to ensure that all property owners within the county are eligible for participation in the National Flood Insurance Program regular program and thereby able to secure such insurance at nominal rates.

(b) *Applicability.*

(1) The special provisions established in this section shall apply to the following areas:

- a. Areas designated as being within the 100-year floodplain by the Flood Insurance Study and as delineated on the Flood Insurance Rate Map (FIRM) dated December 16, 1988, or as subsequently may be amended as Zone A, Zone AE, or Zone VE. A copy of the Flood Insurance Study and accompanying maps shall be filed in the offices of the zoning administrator and building official.
- b. Such other areas as may be determined by the zoning administrator, through drainage and hydrology studies, to be essential to the alleviation of potential flood damage caused by the 100-Year Flood and for which the county has requested amendment or revision of the Flood Insurance Rate Map.

(2) These special provisions shall supplement the regulations of the zoning district within which a subject property is located. The floodplain districts described herein shall be overlays to the existing underlying zoning districts.

(3) Where these regulations are at variance with the general regulations of this chapter, the specific regulations of the zoning district within which the property is located, or other provisions of this Code, the most restrictive regulation shall apply.

(4) Any changes to the data contained in either the Flood Insurance Study or the Flood Insurance Rate Map as a result of natural or man-made conditions or subsequent study and analysis shall require the approval of the National Flood Insurance Administrator prior to implementation. Evidence of such approval shall require the filing with the zoning administrator of one of the following:

- a. Letter of Map Amendment (LOMA)
- b. Letter of Map Revision (LOMR)
- c. Physical Map Revision

In all cases, the burden of proof shall be on the applicant requesting a map or data change.

(5) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered within the floodplain management area except in full compliance with the terms and provisions of this section.

(c) For the purposes of this section, the following terms shall have the following meanings:

Basement. As used in this section, a basement shall be defined as any part of any structure where the floor is below ground level on all ~~four~~ sides.

Channel. A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and the storage of goods and materials.

Flood or flooding.

- A general and temporary condition of partial or complete inundation of normally dry land areas from:
- overflow of inland or tidal waters, or
- the unusual and rapid accumulation or run-off of surface waters from any source, or
- mudslides (i.e., mudflows) which are proximately caused by flooding or precipitated by accumulations of water on or under the ground.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood, 100-Year. A flood level with a one-percent (1%) or greater chance of being equaled or exceeded in any year. Also referred to as base flood.

Flood elevation, base. The elevation in feet of the 100-Year Flood level as shown on the Flood Insurance Rate Map (FIRM) published by the National Flood Insurance Program and the Federal Emergency Management Agency.

Flood hazard zone. The delineation of special flood hazard areas into insurance risk and rate classifications on the Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency and which include the following zones and criteria:

- *Zone A.* Areas subject to inundation by the 100-Year Flood where detailed analyses have not been performed and base flood elevations are not shown.
- *Zone AE.* Areas subject to inundation by the 100-Year Flood as determined by detailed methods with base flood elevations shown within each area.
- *Zone VE.* Areas along coastal regions subject to additional hazards associated with storm wave and tidal action as well as inundation by the 100-Year Flood.
- *Zone X.* Areas located above the 100-Year Flood boundary and having moderate or minimal flood hazards.

Floodplain. A land area which is likely to be inundated by a flood. Floodplain areas are generally adjacent to a river, stream, bay, lake, watercourse, or storm drainage facility.

Floodplain management area. A land area located within a Flood Hazard Zone or which has been designated by the County and to which the provisions of this section apply.

Floodproof. A construction method designed to ensure that all parts of a structure or facility located below the base flood elevation are watertight with walls impermeable to the passage of water and with structural components having the capability of withstanding hydrostatic and hydrodynamic loads and the effects of buoyancy.

~~*Floodway and regulatory floodway.* The channel of any river, stream, watercourse, or storm drainage facility and the adjacent areas reserved in an unobstructed manner to carry the discharge of a 100-Year Flood without increasing flood levels.~~

Manufactured home. The provisions of section 24.1-104, *Definitions* of this chapter notwithstanding, for purposes of this section, a manufactured home shall be defined as a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Also included within this definition shall be park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days, excluding however, those such vehicles stored on a property and not used for their intended purposes.

Mean sea level. National Geodetic Vertical Datum (NGVD) of 1929 to which all elevations on the FIRM and within the Flood Insurance Study are referenced.

Sand dune. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Substantial improvement. For purposes of this section, substantial improvement of existing structures shall be defined as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started or, if the structure has been damaged, before the damage occurred. The following, however, shall be excluded from the above definition:

- Alterations made to any structure listed on either the National Register of Historic Places or the Virginia Register of Historic Landmarks.
- Actions of an emergency nature taken to comply with existing Virginia or county codes which are necessary solely to ensure safe living conditions.

Watercourse. A natural or artificial channel for the passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.

(d) *Use Regulations.* Permitted uses, specially permitted uses, accessory uses, dimensional standards, and special requirements shall be as established by the underlying zoning district, except as specifically modified herein.

(1) The following uses shall be specifically prohibited within Floodplain Management Areas:

- a. Landfills, junkyards, outdoor storage of inoperative vehicles.
- b. Manufactured homes
- c. Surface mines and borrow pits
- d. Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:
 1. Superfund Amendment and Reauthorization Act of 1986
 2. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987)

The following products shall be specifically included:

- a) Oil and oil products including petrochemicals
 - b) Radioactive materials
 - c) Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand
 - d) Biologically accumulative poisons
 - e) Substances containing the active ingredients of economic poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.)
 - f) Substances highly lethal to mammalian or aquatic life
- e. Storage or land application of industrial wastes
 - f. Outdoor storage of equipment, materials, or supplies which are buoyant, flammable, or explosive.
- (2) The provisions of article VIII. *Nonconforming Uses* of this chapter notwithstanding, no expansion of any of the above uses located within the Floodplain Management Area shall be permitted.
- (e) *Special standards and requirements.*
- (1) *Standards for subdivisions.* Preliminary plans, development plans and final subdivision plats of all properties, all or part of which are located within any flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer. The following information, in addition to that which would otherwise be required, shall be provided on the respective plans:
- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s) shall be depicted on preliminary plans, development plans, and final plats.
 - b. Development plans shall provide topographical information for the site at a maximum contour interval of two feet (2') ~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval for elevations one foot (1') ~~{0.25m}~~ lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary shall be shown.
 - c. The elevation of the finished surface of the ground at each corner of each existing building located within any flood hazard zone shall be shown on development plans and final plats.
- (2) *Standards for site plans.* Site plans for development of all properties, all or part of which are located within any Flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer and include the following information in addition to that which would otherwise be required:

- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s).
 - b. Topographical information for the site provided at a maximum contour interval of two feet (2') ~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval shall be required for elevations one foot (1') lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary and the boundary itself shall be shown.
 - c. The elevation of the finished surface of the ground at each corner of each existing or proposed building location within any flood hazard zone.
- (3) *Standards for utilities.* All new or replacement utilities, water filtration, and wastewater treatment facilities, installed in the floodplain management area shall be designed to prevent the infiltration of floodwaters into or discharge from such utilities and to minimize the potential for flood damage.

Where private waste disposal systems are to be installed or replaced, they shall be installed so that they will not be permanently contaminated or impaired by a base flood.

- (4) *Standards for streets and roads.* The finished centerline elevation of all new public or private streets shall be no lower than six and one-half feet (6½') ~~{2m}~~ above mean sea level (NGVD) provided, however, that where an existing street not meeting this criterion is to be extended, the zoning administrator may approve streets or parts thereof which are below this elevation, but not lower than the elevation of the existing street.

- (5) *Standards for filling of floodplain areas.*

- a. Where fill within the floodplain management area is proposed, the following minimum standards shall apply:
 1. Fill areas shall extend laterally a minimum of fifteen feet (15') ~~{4.5m}~~ beyond building lines from all points.
 2. Fill material shall consist only of soil and small rock materials which can pass through a three-inch (3") ~~{75mm}~~ opening ASTM standard sieve. Organic materials, including tree stumps and asphalt rubble, shall be prohibited.
 3. Fill areas shall be compacted as may be specified by the zoning administrator to provide necessary permeability and resistance to erosion, scouring, or settling.
 4. Fill areas shall be graded to a finished slope of no steeper than one (1) vertical to three (3) horizontal, unless substantiated data, certified by a licensed engineer, which justifies steeper slopes is submitted to and approved by the zoning administrator.
 5. The zoning administrator shall impose any additional standards deemed necessary to ensure the safety of the community and properties from additional flood hazard potentials caused by filling within the floodplain management area.
- ~~b. Filling or any other encroachment into a regulatory or other designated floodway which, as determined by the zoning administrator, in any way impairs its flood conveyance shall be prohibited.~~
- ~~b~~e. Filling or any other encroachment into any channel within the floodplain management area which would, as determined by the zoning administrator, obstruct or unduly

restrict water flows through the channel and, in so doing, increase the potential for flood damage shall be prohibited whether or not such channel lies within the regulatory or other designated floodway.

~~cd.~~ The filling of any portion of property solely to increase the elevation of the land to meet minimum lot area requirements and thereby create a buildable lot for residential construction within the floodplain management area shall be prohibited.

~~de.~~ These standards may be waived individually by the zoning administrator, upon the recommendation of the wetlands board for approved parks, recreation facilities, shoreline erosion control and beach maintenance projects where sufficient data is presented justifying the project and where it is demonstrated that such actions will not increase flood levels on any properties.

- (6) *Standards for watercourse modification.* Watercourses shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer, that the flood-carrying capacity of such a modified watercourse will be at least equal to that prior to modification. Prior to any proposed alteration of any channels or of any watercourse or stream within the Floodplain Management Area overlay district, a permit shall be obtained from ~~The zoning administrator shall, at minimum, obtain the approval of the Federal Insurance Administrator, the Natural and Technological Hazards Division of the Federal Emergency Management Agency, any adjacent localities and, if deemed appropriate, the Army Corps of Engineers, or the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Soil and Water Conservation) and the Federal Insurance Administration.~~ Water Board, prior to granting approval for any watercourse modifications.

- (7) *Construction standards for properties in Zone AE.* All new construction or substantial improvement in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least one and one-half feet (1 ½') ~~500mm~~ above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- b. It is strongly recommended that all electrical distribution panels be installed at least three feet (3') ~~1m~~ above the base flood elevation or otherwise designed and located so as to prevent inundation.
- c. In all cases, elevation of the lowest floor of the structure, including basements, to at least one and one-half feet (1 ½') ~~500mm~~ above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that level, is strongly encouraged and may result in a reduction of flood insurance premiums.

- (8) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable

provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:

- a. All new construction or development shall be located landward of the reach of the mean high tide.
 - b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
 - c. No structure or any part thereof may be constructed on fill material of any kind.
 - d. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least three feet (3') ~~{1m}~~ above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
 - e. It is strongly recommended that all electrical distribution panels be installed at least six feet (6') ~~{2m}~~ above the base flood elevation or otherwise located so as to prevent inundation.
 - f. In all cases, elevation of the lowest structural member of the lowest floor of the structure, excluding pilings or columns, to at least three feet (3') ~~{1m}~~ above the base flood elevation is strongly encouraged and may result in a reduction of flood insurance premiums.
- (9) *Construction standards for properties in Zone A.* All new construction or substantial improvements in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the zoning administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the 100-Year Flood Boundary. Upon approval by the zoning administrator, copies of all such detailed analyses shall be transmitted to the National Flood Insurance Administrator for incorporation into the FIRM.
- (f) *Variances.* Variances from the provisions of this section may be granted by the board of zoning appeals in accordance with the provisions of article IX of this chapter except that the board of zoning appeals shall notify all applicants, in writing, that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to an annual premium equal to twenty-five percent (25%) of the total insurance coverage and that such construction increases risks to life and property, both their own and others. Copies of this notification shall be transmitted, along with all other records of variances from the provisions of the floodplain management area, to the Federal Insurance Administrator at least biannually. In granting variances from the provisions of this section, the board of zoning appeals shall find that the variance is the minimum necessary to afford relief.

(Ord. No. O98-18, 10/7/98)

NEW BUSINESS, continued

Proposed PLANNING COMMISSION SCHEDULE January 1 - December 31, 2003				
PLANNING COMMISSION			BOARD OF SUPERVISORS	
<i>PC Meeting</i>	<i>Deadline</i>	<i>Advertise PC</i>	<i>Probable BOS Meeting²</i>	<i>Advertise BOS</i>
Jan 8, 2003	Dec 2, 2002	Dec 24 ³ & Dec 31	Feb 18	Feb 3 & 10
Feb 12	Jan 2	Jan 28 & Feb 4	Mar 18	Mar 3 & 10
Mar 12	Feb 3	Feb 25 & Mar 4	Apr 15	Apr 7 & Mar 31
Apr 9	Mar 3	Mar 25 & Apr 1	May 20	May 5 & 12
May 14	Apr 1	Apr 29 & May 6	Jun 17	Jun 2 & 9
Jun 11	May 1	May 27 ³ & Jun 3	Jul 15	Jun 29 ³ & Jul 7
Jul 9	Jun 2	Jun 24 & Jul 1	Aug 19	Aug 4 & 11
Aug 13	Jul 1	Jul 29 & Aug 5	Sept 16	Sep 1 ³ & 8
Sep 10	Aug 1	Aug 26 & Sep 2	Oct 21	Oct 6 & Oct 13
Oct 8	Sep 2	Sep 23 & 30	Nov 18	Nov 3 & 10
Nov 12	Oct 1	Oct 28 & Nov 4	Dec 16	Dec 1 & 8
Dec 10	Nov 3	Nov 25 ³ & Dec 2	Jan 20, 2004	Jan 5 & 12, 2004
Jan 14, 2004	Dec 1	Dec 23 ³ & Jan 6	Feb 17	Feb 2 & 9

- ¹ Application for or amendment to a **Planned Development** requires a month longer to process *and therefore must be submitted two (2) months* before Planning Commission public hearing.
- ² Assuming immediate action by the Planning Commission and placement by the Board on its agenda.
- ³ Holiday advertising schedule (staff submit early)
NOTE: Planning Commission - 2nd Wednesday of each month
Board of Supervisors - 1st and 3rd Tuesday of each month, except only 3rd Tuesday in July & Nov.
All regular meetings convene at York Hall, 301 Main Street, Yorktown, Virginia, at 7:00 P.M.

PC02-48

On motion of Mr. Simasek, which carried 5:0 (Mr. Barba absent), the following resolution was adopted:

A RESOLUTION TO ADOPT THE PLANNING COMMISSION SCHEDULE FOR 2003

WHEREAS, the Planning Commission is required by Section 15.2-2214 of the Code of Virginia to fix the time for regular meetings; and

WHEREAS, the Commission designates the second Wednesday of every month as its regular meeting date; and

WHEREAS, the Commission desires that all matters to come before it are scheduled in an orderly and consistent manner;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this 11th day of December, 2002, that it does hereby adopt the Planning Commission Schedule 2003 as its official meeting calendar.

STAFF REPORTS

Mr. Carter reported on recent actions taken by the Board of Supervisors.

Mr. Carter explained that the Board of Supervisors had conducted a work session related to accessory apartments and requested that the Commission review its recommendation to sponsor a text amendment. He recommended the Commission consider conducting a work session to study the proposed amendment before it passes a recommendation to the Board. The members then selected January 22, 2003 at 6:30 p.m. for a work session in the York Hall East Room.

Mr. Carter distributed memorandum dated December 10, 2002, "Senior Housing," concerning potential Zoning Ordinance text amendments intended to better recognize the range of senior housing products being pursued in the housing market. The Board agreed with staff's recommendation that it be forwarded to the Planning Commission for review and eventual public hearing and recommendation. The Board encouraged the Commission to form a study committee to review the material, Mr. Carter reported, and, after following his discussion of the recommendation with Chair Hendricks, suggested that the Commission target March 2003 for its public hearing on the proposed

amendments, assuming the committee has completed its work.

Mr. Hendricks called for volunteers to serve on this *ad hoc* committee to consider senior housing needs, and Commissioners Heavner, Ptasznik, and White volunteered. Mr. Hendricks appointed Ms. White to chair the study committee. Mr. Carter stated that the staff would assemble and report to Mr. Hendricks and Ms. White the names of citizens who might be interested in serving on the committee.

FUTURE BUSINESS

Mr. Carter noted the agenda items for future meetings.

ADJOURNMENT

Adjournment was called at 8:10 PM.

SUBMITTED: /s/
Phyllis P. Liscum, Secretary

APPROVED: /s/
Michael H. Hendricks, Chair

DATE: January 8, 2003
